

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

YOLANDA R. EFFINGER,

Plaintiff,

v.

WINN-DIXIE MONTGOMERY, INC.

Defendant.

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Case No.: 2:07-CV-657-ID-TFM

**DEFENDANT'S MOTION TO AMEND**

COMES NOW the Defendant Winn-Dixie Montgomery, Inc. and herewith moves this Court to allow it to amend its Answer by adding thereto the additional affirmative defense set forth on the attached Amended Answer which is being filed contemporaneously with this Motion. Defendant shows unto the Court that the Motion to Amend is within the time allowed by the Court pursuant to the Court's Uniform Scheduling Order, that the defense is appropriate and asserted in good faith.

/s/ *Randall Morgan*

RANDALL MORGAN [MOR037]  
Defendant Winn-Dixie Montgomery, Inc

OF COUNSEL:

HILL, HILL, CARTER, FRANCO,  
COLE & BLACK, P.C.

425 South Perry Street

P.O. Box 116

Montgomery, Alabama 36101-0116

(334) 834-7600

(334) 263-5969..FAX

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing was duly served via E-Mail, facsimile and by placing a copy of same in the U.S. mail, properly addressed and first class postage prepaid this the 29<sup>th</sup> day of January, 2008 upon the following:

Ronald B. Hatcher, Esq.  
P.O. Box 161442  
Atlanta, GA 30321

/s/ *Randall Morgan*

OF COUNSEL

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**DEFENDANT'S AMENDED ANSWER**

COMES NOW the Defendant Winn-Dixie Montgomery, Inc. and herewith amends its Answer by adding thereto the following defense:

**FIFTEENTH AFFIRMATIVE DEFENSE**

This Defendant avers that the conditions were at all times open and obvious.

/s/ *Randall Morgan*

RANDALL MORGAN [MOR037]  
Defendant Winn-Dixie Montgomery, Inc

OF COUNSEL:

HILL, HILL, CARTER, FRANCO,

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/s/ *Randall Morgan*  
OF COUNSEL